

No. 2022-1378

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

BRODRICK JAMAR JENKINS,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States District Court for the District of North Dakota,
No. 3:19-cv-00188-ARS

APPELLEE’S MOTION TO APPEAR REMOTELY:

Pursuant to Federal Circuit Rule 27, Appellee United States of America (“United States”) respectfully requests leave to appear remotely at the oral argument scheduled for April 7, 2023, at 10:00 a.m. if a late season blizzard forecasted to produce 9-14 inches of snow and 30 mile-per-hour winds prevents her from traveling. In the event counsel’s flight is canceled, the United States requests leave to appear remotely at the oral argument.

Assistant United States Attorney Melissa Helen Burkland’s flight is scheduled to depart Fargo, North Dakota on April 6, 2023, at 10:49 a.m. The

blizzard is expected to impact Fargo, North Dakota starting Tuesday, April 4, through Wednesday, April 5. Therefore, the United States is unsure how that will impact flights scheduled to depart on Thursday, April 6, 2023. The undersigned will make every effort to appear in person. Out of an abundance of caution and to provide sufficient notice, the undersigned respectfully requests a remote appearance in the event the weather impedes her ability to travel.

Dated: April 4, 2023

MAC SCHNEIDER
United States Attorney

By: /s/ Melissa Helen Burkland
MELISSA HELEN BURKLAND
Assistant United States Attorney
WI Bar ID 1071443
655 First Avenue North, Suite 250
Fargo, ND 58102-4932
(701) 297-7400
melissa.burkland@usdoj.gov
Attorney for United States

DECLARATION OF MELISSA HELEN BURKLAND

I, Melissa Helen Burkland, Assistant United States Attorney, declare as follows:

1. I submit this declaration in support of Appellee's Motion for Leave to Appear Remotely. I have personal knowledge of the facts declared herein.

2. I am Assistant United States Attorney Melissa Helen Burkland and I am the arguing counsel for this case. I am scheduled to appear in person for argument at the National Courts Building in Washington, D.C. on April 7, 2023, at 10:00 a.m. I am scheduled to depart from Fargo, North Dakota on April 6, 2023, at 10:49 a.m.

3. The National Weather Service is forecasting a blizzard to impact Fargo, North Dakota starting on Tuesday, April 4, 2023, through Wednesday night of April 5, 2023. The National Weather Service is forecasting the area to receive 9-14 inches of snow with 30 mile-per-hour winds. I am unsure if my flight scheduled to depart on Thursday, April 6th at 10:49 a.m. will depart on time, if at all.

4. If my motion is granted, I agree and understand that I must comply with the Instruction for Arguing Counsel Participation in Remote Arguments, as well as any additional instructions provided by court staff.

5. If my motion is granted, I agree that I will neither record, photograph, broadcast, nor otherwise capture any audio, video, or image from any aspect of my

remote appearance. I further agree that I will neither transmit not permit the transmittal of any audio, video, or image from any aspect of my remote appearance to a third party, including co-counsel, support staff, or my client. I understand that this prohibition includes any action or inaction on my part that would allow someone else to record, photograph, broadcast, or otherwise capture any audio, video, or image from any aspect of my remote appearance.

6. If my motion is granted, I agree not to share or otherwise disclose connection information for my remote appearance to anyone else, except as necessary for staff under my supervision to help facilitate my connection to the conference.

7. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 4, 2023

MAC SCHNEIDER
United States Attorney

By: /s/ Melissa Helen Burkland
MELISSA HELEN BURKLAND
Assistant United States Attorney
WI Bar ID 1071443
655 First Avenue North, Suite 250
Fargo, ND 58102-4932
(701) 297-7400
melissa.burkland@usdoj.gov
Attorney for United States

CERTIFICATE OF INTEREST

Case No. 2022-1378

Brodrick Jamar Jenkins v. United States

Filing Party/Entity: United States of America

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Dated: Signature: /s/ Melissa Helen Burkland

Name: Melissa Helen Burkland

1. **Represented Entities** (Fed. Cir. R. 47.4(a)(1)) – Provide the full names of all entities represented by undersigned counsel in this case.

United States of America.

2. **Real Party in Interest** (Fed. Cir. R. 47.4(a)(2)) – Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.

None.

3. **Parent Corporations and Stockholders** (Fed. Cir. R. 47.4(a)(3)) – Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.

Not Applicable.

4. **Legal Representatives** – List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

None.

5. **Related Cases** – Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court’s decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). *See also* Fed. Cir. R. 47.5(b).

None.

6. **Organizational Victims and Bankruptcy Cases** – Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtor and trustees). Fed. Cir. R. 47.4(a)(6).

Not Applicable.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS**

Case No. 2022-1378

Brodrick Jamar Jenkins v. United States

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because the filing has been prepared using a proportionally spaced typeface and includes 127 words.

Dated: April 4, 2023

/s/ Melissa Helen Burkland
Melissa Helen Burkland